

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 1, 2004

**D042178        Riley et al. v. Metabolife International, Inc.**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D040958        People v. Nguyen**

Nguyen's conviction on count 1 for attempted involuntary manslaughter is reversed and we remand this matter with directions for a retrial on this count or, if the People elect not to retry Nguyen on this count, for resentencing. In all other respects, the judgment is affirmed. McIntyre, J.;

We Concur: McConnell, P.J., O'Rourke, J.

**D041972        Tatro-Romero v. Metabolife International, Inc.**

Upon written request filed by appellant, the appeal is dismissed.

**D041993        Rodriguez v. Metabolife International, Inc.**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 2, 2004

**D043409        In re Drasar on Habeas Corpus**

The petition is denied.

**D042851        In re Olivia J., a Juvenile**

The judgment is reversed as to the order that Lenore submit to a psychological evaluation. In all other respects, the judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D041622        Parker v. Marshall**

The judgment is reversed. McIntyre, J.; We Concur: Benke, Acting P.J., Nares, J.

**D042880        People v. Riojas**

The judgment is affirmed. Aaron, J.; We Concur: Benke, Acting P.J., Haller, J.

**D042786        In re Teddy T., a Juvenile**

The order placing Teddy in Camp Barrett is affirmed. Haller, J.; We Concur: Nares, Acting P.J., McIntyre, J.

**D042433        In re Julian V. et al., Juveniles**

The termination judgment is reversed as to Julian and Mother and on remand to the juvenile court, the matter may proceed as scheduled to the new section 366.26 hearing to determine a permanent plan; the remittitur is to issue forthwith as to Julian and Mother. (Cal. Rules of Court, rule 26(c)(1).) as to Julian and Father, the termination judgment is affirmed. The judgments terminating parental rights as to Cassandra and Michael and selecting adoption as their permanent plans are affirmed. The remittitur is to issue in the normal course as to Cassandra and Michael. (See fn. 2, ante.) Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D042847        In re Jayme D. et al., Juveniles**

The order is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., Haller, J.

**D040766        Ragen v. Peterson**

Judgment affirmed. Peterson to bear Ragen's costs on appeal.

**D042649        People v. Tucker**

The judgment is affirmed. McConnell, P.J.; We Concur: Huffman, J., Haller, J.

**D041230        People v. Hernandez**

The order revoking probation is reversed. O'Rourke, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D042062        People v. Smith**

The judgment is affirmed. McIntyre, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D040891        Rossi Concrete, Inc. v. Skyline Wesleyan Church, Inc.**

We reverse the judgment insofar as it awards Skyline \$100,639 on its cross-complaint and \$72,170 in attorney fees and \$3,825.06 in other costs as the prevailing party. We remand the matter to the trial court for entry of a new judgment for Rossi on its complaint and a new hearing on attorney fees and other costs. In all other respects, we affirm the judgment. McConnell, P.J.; We Concur: McIntyre, J., O'Rourke, J.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 2, 2004 (Continued)

**D041162        Barratt American Inc. v. City of Encinitas et al.**

The petition for rehearing is denied.

**D042807        People v. Barajas**

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.

**D042008        Adoption of Natalie L., a Minor**

The petition for rehearing is denied.

**D043838        Abatti v. Superior Court of Imperial County/People**

The petition is denied.

**D043666        Robert V. v. Superior Court of the County of San Diego/San Diego County Health  
and Human Services Agency**

The attorney for petitioner Robert V. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 3, 2004

**D040679 Ramona Unified School District v. Kearney**

The judgment is affirmed. District is entitled to costs on appeal. McDonald, J.;  
We Concur: McConnell, P.J., Haller, J.

**D042541 Kearney v. Superior Court of San Diego County/Ramona Unified School District**

The petition is denied. McDonald, J.; We Concur: McConnell, P.J., Haller, J.

**D042241 Ramona Unified School District v. Kearney**

The orders are affirmed. McDonald, J.; We Concur: McConnell, P.J., Haller, J.

**D040960 People v. Vargas**

The convictions are affirmed. The matter is remanded for resentencing in accordance with the views expressed in this opinion. Irion, J.; We Concur: Benke, Acting P. J., Nares, J.

**D042672 Starks v. Metabolife International, Inc.**

Upon written request filed by appellant, the appeal is dismissed.

**D042558 In re Sloan A., a Juvenile**

The order is affirmed. Haller, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D043670 Bouton et al. v. Lebeau et al.**

Pursuant to California Rules of Court, rule 8, the appeal filed January 27, 2004, is dismissed for appellants failure to timely designate the record.

**D042716 People v. Conley**

The order granting Conley's petition is reversed, and the trial court shall enter a new and different order denying Conley's petition. CERTIFIED FOR PUBLICATION. McDonald, J.;  
We Concur: McConnell, P.J., Haller, J.

**D043840 People v. Kassab**

The notice of appeal filed February 27, 2004 is not from an appealable order and the time in which to file a petition to transfer has expired. The appeal is dismissed.

**D043553 Maria M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. McConnell, P.J.; We Concur: Huffman, J., Irion, J.

**D043639 In re Player on Habeas Corpus**

The petition is denied.

**D042810 In re Courtney S. et al., Juveniles**

The appeal is dismissed. Aaron, J.; We Concur: Benke, Acting P.J., McIntyre, J.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 3, 2004 (Continued)

**D042194        O'Connor v. Metabolife International, Inc.,**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rule of Court, rule 20(c)(2)). Appellant's request for judicial notice, filed on December 12, 2003 and respondent's motion to dismiss the appeal, filed December 23, 2003 are moot. Respondent's December 23, 2003 motion for sanctions is denied.

**D041344        Airport Working Group of Orange County, Inc., et al. v. County of Orange et al./  
El Toro Reuse Planning Authority**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

**D043852        In re Shantel H., a Juvenile**

The notice of appeal received February 27, 2004 and the petition for extraordinary writ received February 27, 2004 are untimely. The case is dismissed.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 4, 2004

**D041513      People v. Plaisir**

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Benke, J.

**D041033      Netwig et al. v. CML Investors, LP et al.**

The judgment is affirmed. Each party is to pay its costs on appeal. O'Rourke, J.;  
We Concur: McConnell, P.J., McIntyre, J.

**D041604      Long v. Schiffman et al.**

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Benke, J.

**D040074      Brumbaugh v. Depew et al.**

The judgment and orders are affirmed. Niki Depew's motion for sanctions for a frivolous appeal is granted and \$4000 in monetary sanctions are imposed, jointly and severally, against appellant Brumbaugh and her attorneys Pinkerton Doppelt & Associates, LLP.

**D042035      People v. Cutts**

The judgment is affirmed. Haller, J.; We Concur: Benke, J., O'Rourke, J.

**D043385      Monica G. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. O'Rourke, J.; We Concur: McConnell, P.J., Aaron, J.

**D042010      Blackburn v. Brady**

The order appealed from is affirmed. Blackburn to recover costs on appeal. CERTIFIED FOR PUBLICATION. Huffman, J.; We Concur: McDonald, J., Aaron, J.

**D041009      Wilkerson et al. v. United States Justice Foundation**

The order imposing sanctions is affirmed. Planned Parenthood is awarded its costs of appeal and the attorney fees incurred on appeal. (Lieu v. Moore, supra, 69 Cal.App.4th at p. 754.) Benke, J.;  
We Concur: Haller, J., O'Rourke, J.

**D041676      Anthony v. Snyder et al./Barratt American Incorporated, a Delaware Corporation**

Judgment reversed with directions to enter a new judgment in favor of the County appellants and Barratt. County appellants and Barratt shall recover costs on appeal. CERTIFIED FOR PUBLICATION. Huffman, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D042154      Miller v. Metabolife International, Inc.**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rule of Court, rule 20(c)(2)). Appellant's request for judicial notice, filed on January 12, 2004 and respondent's motion to dismiss the appeal, filed January 16, 2004 are moot. Respondent's January 16, 2004 motion for sanctions is denied.

**D042691      In re L.T., a Juvenile**

The order is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Haller, J.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 4, 2004 (Continued)

**D040337        Brenton v. Metabolife International, Inc.**

The judgment is affirmed. Brenton shall recover her costs on appeal. CERTIFIED FOR PUBLICATION. McDonald, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D043612        Francisco R. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Francisco R. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D043819        In re Mitleider on Habeas Corpus**

The petition is denied.

**D043835        De Anza Harbor Resort & Golf v. Superior Court of San Diego County/Carlson**

The petition is denied.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 5, 2004

**D042808        In re Hakeem M., a Juvenile**

The orders are affirmed. Haller, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D042799        In re Monica M., a Juvenile**

The judgment and the order are affirmed. McConnell, P.J.; We Concur: Huffman, J., O'Rourke, J.

**D035500        People v. Smith et al.**

The parole revocation fines imposed pursuant to section 1202.45 are stricken as to both Smith and Carter. The superior court is directed to issue new abstracts of judgment reflecting this change, and to correct the clerical errors in Carter's abstract of judgment, as specified in section IIK of this opinion. In all other respects, the judgments are affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D040111        Nutter v. Metabolife International**

Upon written request filed by appellant. the appeal is dismissed.

**D040113        Dye v. Metabolife International**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

**D042866        In re Raul R. et al., Juveniles**

The judgment and order are affirmed. Irion, J.; We Concur: Benke, Acting P.J., Haller, J.

**D041752        Smith v. Seene**

The judgment is affirmed. McDonald, J.; We Concur: Benke, J., Irion, J.

**D040456        Johnson et al. v. Metabolife International, Inc.**

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D043536        Dickson et al. v. Mosbey et al.**

The petition for writ of supersedeas is denied.